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# CIA receives both boosts and slaps

## Accusation of Helms, disclosure of names

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Washington

A pro-CIA move and an anti-CIA move are being considered simultaneously by the Justice Department.

The "anti" move under discussion is the prosecution of Richard M. Helms, the former CIA director, now Ambassador to Iran, based on Mr. Helms' reported admission that he ordered a break-in at a photo studio in Virginia.

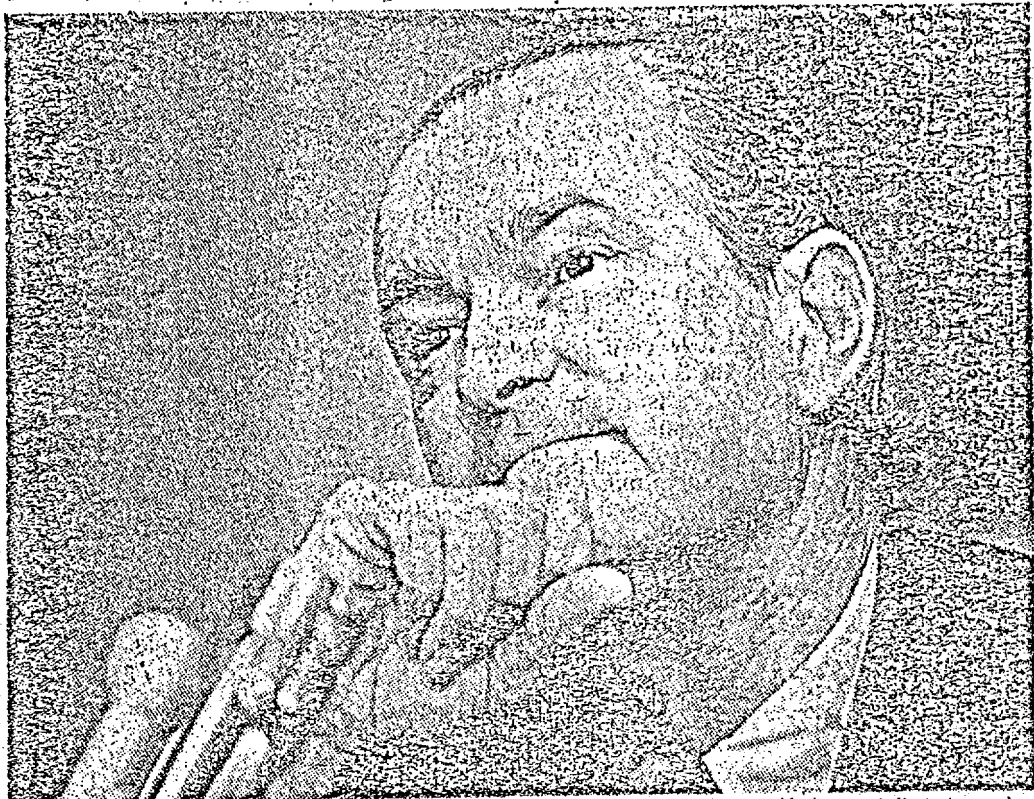
The "pro" move would be the prosecution of the magazine Counterspy whose publication of names of CIA officers may have led to the assassination of Richard S. Welch in Athens recently. The case is complicated by the publication Jan. 12 of 28 new CIA names by the French newspaper Liberation, allegedly in collaboration with Counterspy.

The man who will make the decisions whether or not to prosecute is J. Stanley Pottinger, head of the Justice Department's Civil Rights Division, who has gained prominence in two civil rights affairs. In one he reopened the Kent State shooting case, leading to prosecution of eight national guardsmen (who were acquitted); in the other he was in charge last fall of a federal team that tried to ensure law and order in reopening of integrated schools in Boston.

The possible prosecution of Mr. Helms is based on the admission Mr. Helms is said to have made to the CIA that he ordered a break-in at a photo studio in Fairfax City. This appears to have contradicted his statement to the Senate Intelligence Committee that the CIA had not engaged in domestic surveillance.

The Justice Department has until Jan. 19 to decide whether or not to prosecute Mr. Helms. On that date the five-year statute of limitations applicable to civil rights cases will become operative.

Mr. Pottinger must decide whether the rights of the photo shop owner and of Mr. Welch were violated. In addition, Mr. Helms could be prosecuted for perjury in the break-



By R. Norman Matheny, staff photographer

### Ex-CIA chief Helms — will Justice Department leave him out in the cold?

in case. He also could be charged in connection with his denial before the Senate Foreign Relations Committee that the CIA had engaged in subversion of the Allende government in Chile.

The break-in was on Feb. 19, 1971, with three Fairfax County government policemen standing guard, it is alleged, to find out what materials might have been pilfered by Deborah Fitzgerald, a former CIA official, in an effort to protect Orlando Nunez, a former official of the Castro government. The two have since married.

In the case of the names published by Counterspy, the Justice Department's difficulty is that the First Amendment protects any newspaper's right to publish anybody's name.

To prosecute, according to Justice Department officials, it would have to be able to show that the publication of names by the magazine

led to the publication of Mr. Welch's name and address by an Athens newspaper, and this resulted in the assassination.

Actions outside the United States, such as the publication of additional names by Liberation in Paris are outside the jurisdiction of the Justice Department, unless, as in the Welch case, the publication led to a crime, and it could all be traced back to Counterspy.

Counterspy editor Tim Butz has promised to publish a new list of 60 names of CIA officials which it says it gleans mainly from publications abroad.

The two cases, together with allegations of CIA assassinations and illicit operations inside the United States, have brought morale at CIA headquarters at Langley to a new low.

Mr. Helms, CIA men say privately, was empowered under the law to protect CIA security. They feel that the Fairfax operation fell within that framework.